

M E M O R A N D U M

To: Board of Juvenile Court Judges

From: Brent Johnson, General Counsel

Re: Court Security Fee

Date: January 23, 2006

This memo is to clarify certain issues surrounding the juvenile court's security fee. The three main issues are: 1) the cases to which it applies, 2) whether the fee is ordered on each charge, and 3) what happens when the judge does not specifically order the surcharge to be applied.

The security surcharge statute reads as follows: "in addition to any fine, penalty, forfeiture, or other surcharge, a security surcharge of \$25.00 shall be assessed in all courts of record on all criminal judgments and juvenile delinquency judgments." The statute mandates that the security surcharge be assessed "on all . . . juvenile delinquency judgments." However, the statute then qualifies that language by stating that "the security surcharge may not be imposed upon non-moving traffic violations, community service, and penalties assessed by the juvenile court as a part of the non-judicial adjustment of a case." Although the language is somewhat confusing, a security surcharge should be imposed in all cases except for non-judicial adjustments, non-moving traffic violations, and cases in which a defendant is only ordered to perform community service. The language, and the intent of the language, is that the surcharge is applied to judgments on status offenses, as well as other delinquencies.

When the statute was passed, the fiscal note that was attached to the statute was based on the surcharge being imposed on each individual charge, except the charges listed above. Thus, when the statute states that the surcharge shall be imposed on all "juvenile delinquency judgments," this is referring to a judgment on each individual charge. The court should thus bear this in mind when imposing the surcharge.

Finally, because a surcharge is mandatory in all of the cases except the statutory

exceptions, if a judge does not specifically order that the surcharge be imposed, the surcharge will still be included as a part of whatever amount the judge does impose. For example, if a judge orders a defendant to pay a \$100.00 penalty, and does not include any additional amounts, the penalty (fine and other surcharge) will actually be \$75.00, as the \$25.00 security surcharge will be included. If a judge orders a fine of only \$25.00, the entire amount will be taken as the security surcharge. In that situation, there would be no fine and other surcharge. So, again, for example, if an individual had four charges, all of which are subject to the security surcharge, and a judge orders the defendant to pay a total of \$100.00 on all of the charges, all the money will be applied to the security surcharge, as each incident will require that the surcharge be added.

Please let me know if you have any questions about this.